



Federal Election Commission  
Attn: Jeff S. Jordan, Assistant General Counsel  
May 7, 2014  
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business reasons for the advertisement by the Foundation when it states that Ms. McClelland was acting as the "spokeswoman ... regarding the services the Foundation provides." The Complaint contains no fact or even an allegation, which would suggest that Ms. McClelland's appearance in the 16 second commercial airing only in the early morning hours – at the direction of the Foundation and consistent with her traditional role in promoting Arche Wellness and its rehabilitative services – constitutes an in kind political contribution. The advertisement contained no political information and disseminated no political view or message. There are simply no facts, or factual inferences, which would substantiate the allegation that the Foundation made an in kind contribution to the McClelland Campaign for the purpose of influencing the election of Ms. McClelland. The failure of the Complaint to state a prima facie violation of any campaign law or standard compels dismissal of the Complaint with prejudice.

#### **Requisite Standards Of A Coordinated Communication Have Not Been Met**

Arche Wellness made no payment for the purpose of influencing an election, and did not engage in prohibited coordinated communication within the meaning of 11 CFR § 109.21. In particular, the 'content standard' of subsection (a)(2) cannot be satisfied. The subject advertisement is not an electioneering communication under subsection (c)(1); there is no reference to Ms. McClelland or to her candidacy for Federal office, as required by 11 CFR § 100.29(a)(1). The advertisement contains no content whatsoever that would satisfy subsection (c)(2) of CFR § 109.21. The commercial does not convey a political message, or suggest the election or defeat of a candidate for Federal office (subsection (c)(3)). There is no mention of any house, senate, presidential or vice-presidential candidate or of any political party, as required by the provisions of subsection (c)(4). The language in the commercial does not appeal to people to vote for or against any candidate, so as to violate subsection (c)(5).

At the very minimum, the advertisement falls within the definition of a "safe harbor for commercial transactions." It clearly is protected by 11 CFR § 109.21(i), which reads:

A public communication in which a Federal candidate is clearly identified only in his or her capacity as the owner or operator of a business that existed prior to the candidacy is not a coordinated communication with respect to the clearly identified candidate if

- (1) The medium, timing, content, and geographic distribution of the public communication are consistent with public communication made prior to the candidacy; and

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- (2) The public communication does not promote, support, attack, or oppose that candidate or another candidate who seeks the same office as that candidate.

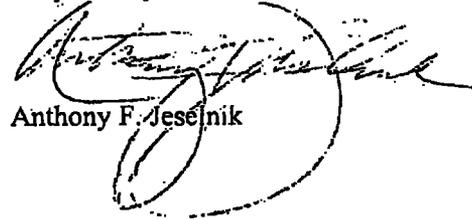
As set forth in the enclosed Affidavit, Ms. McClelland has appeared in television advertisements and historically has promoted Arche Wellness and its drug and alcohol rehabilitative services in public appearances and in commercials. The numerous commercials in which Ms. McClelland appeared previously are practically identical to the one in which she now is being accused of participating for political reasons.

In the instant advertisement, Ms. McClelland clearly identifies herself as being "of Arche Wellness" with the Arche Wellness Foundation name in large print in the background. The commercial did not vary from prior commercials. The full 16 seconds of time were devoted to the addiction recovery program of Arche Wellness. As before, there is no political message, or suggestion thereof. Since the safe harbor provisions unquestionably have been satisfied, the subject advertisement does not violate the conduct standards.

#### Conclusion

Based upon the foregoing, the Complaint is without merit. Therefore, it is respectfully requested that the Complaint be dismissed with prejudice. Please advise me, if further information or clarification may be needed.

Respectfully submitted,



Anthony F. Jeselnik

AFJ/gt  
enclosures

cc: The Arche Wellness Foundation



FEDERAL ELECTION COMMISSION  
 999 E Street, NW  
 Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL  
 Please use one form for each Respondent/Entity/Treasurer  
 FAX (202) 219-3923

MUR # 6807

NAME OF COUNSEL: Anthony F. Jeselnik

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The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

05/05/14  
 Date

Ray J. Lascoe  
 Respondent/Agent -Signature

Secretary  
 Title (Treasurer/Candidate/Owner)

NAMED RESPONDENT: Arche Wellness Foundation

MAILING ADDRESS: 237 Sixth Street  
 (Please Print)

Pittsburgh, PA 15238

TELEPHONE- HOME \_\_\_\_\_

BUSINESS (412) 820-8328

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation

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